

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF COMMERCE

In the Matter of
Justin J. Christenson

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

This matter came on for a status conference before Administrative Law Judge Barbara L. Neilson at 9:30 a.m. on September 8, 2011, at the Office of Administrative Hearings in St. Paul, Minnesota. Michael J. Tostengard, Assistant Attorney General, appeared on behalf of the Minnesota Department of Commerce (Department). The Respondent, Justin J. Christenson, appeared on his own behalf, without counsel.

During the status conference on September 8, 2011, Mr. Christenson and counsel for the Department notified the Administrative Law Judge that they had reached a stipulation under which Mr. Christenson agreed that he would not admit the allegations set forth in the Statement of Charges but would not contest them, and reserved the right to submit argument to the Commissioner regarding the appropriate sanction to be imposed against him. If a civil penalty is ordered by the Commissioner, the parties understand that the Respondent will have the opportunity to request a hearing before the Commissioner. The terms of the agreement reached between the Department and Respondents are reflected in this Report.

As a result of the parties' agreement, no further OAH hearing was scheduled. The OAH record closed on September 8, 2011.

STATEMENT OF THE ISSUES

Did the Respondent participate in a fraudulent kickback and price inflation scheme while employed at Split Rock Realty from October 2006 through November 2007 and thereby demonstrate untrustworthiness and financial irresponsibility in violation of Minn. Stat. §§ 45.027, subd. 7(4), 58.12, subd. 1(b)(2)(v), and 82.82, subd. 1(f), and engage in a fraudulent, deceptive and dishonest act or practice in violation of Minn. Stat. §§ 58.12, subd. 1(b)(2)(iv), 82.81, subd. 12(9), and 60K.43, subd. 1(8)? If so, what, if any, sanctions should be imposed against the Respondent, his real estate salesperson's license, and/or his resident insurance producer's license?

Based upon the records and proceedings in this matter, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The Respondent, Justin J. Christenson, has been licensed by the Department as a real estate salesperson (License No. 20431180) and a resident insurance producer (License No. 40166245). These licenses are no longer active. The Respondent has also been issued unlicensed company reference number 20630742.

2. On February 9, 2011, the Department served the Notice of and Order for Hearing, Order for Prehearing Conference, Order to Show Cause, and Statement of Charges (hereinafter referred to as the Notice of Hearing) in this matter on the Respondent.¹

3. The Notice of Hearing scheduled a prehearing conference for March 31, 2011.² The Respondent requested and was granted a continuance of the prehearing conference in order to allow him additional time to retain legal counsel.³ The prehearing conference was rescheduled for April 28, 2011.⁴

4. The Respondent and his father appeared at the prehearing conference on April 28, 2011, and a schedule was set under which the hearing would be held on September 8, 2011.⁵

5. A Protective Order was entered in this matter on June 20, 2011.

6. By letter dated August 25, 2011, counsel for the Department informed the Administrative Law Judge that the parties had reached a tentative settlement agreement following the prehearing conference but the Department had not heard anything further from the Respondent despite making attempts to contact him, and requested that the September 8, 2011, hearing date be converted to a status conference.

7. On August 29, 2011, the Administrative Law Judge issued a Second Prehearing Order cancelling the hearing previously scheduled for September 8, 2011, and instead ordering that a status conference be held on that date.

8. During the status conference on September 8, 2011, the Department and the Respondent notified the Administrative Law Judge that they had reached a stipulation. Under the stipulation, Mr. Christenson agreed that he would not admit the allegations set forth in the Statement of Charges but would not contest them, and reserved the right to submit argument to the Commissioner regarding the appropriate sanction to be imposed against him. If a civil penalty is ordered by the Commissioner, it

¹ See Affidavit of Service by U.S. Mail attached to the Notice of Hearing dated Feb. 9, 2011.

² Notice of Hearing at p. 1.

³ March 23, 2011, Letter from Respondent to Administrative Law Judge.

⁴ April 5, 2011, and April 13, 2011, Letters from Administrative Law Judge to Respondent and counsel for Department.

⁵ First Prehearing Order (May 12, 2011).

is the understanding of the parties that the Respondent will have the opportunity to request a hearing before the Commissioner.

9. As a result of the parties' agreement, no further OAH hearing was scheduled.

10. Based on the stipulation entered into between the Department and the Respondents, the allegations contained in the Amended Statement of Charges with respect to Respondents are not admitted but are not contested. Those allegations are hereby incorporated into these Findings of Fact, with the understanding that the Respondent reserves his right to present argument to the Commissioner regarding what, if any, sanctions should be imposed against him.

Based upon these Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge and the Commissioner of Commerce have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 45.027, 58.12, 82.82, and 60K.43.

2. The Notice of Hearing was proper, the Department has complied with all relevant procedural legal requirements, and this matter is properly before the Commissioner and the Administrative Law Judge.

3. The Respondent has entered into a stipulation with the Department under which he does not admit but will not contest the allegations set forth in the Statement of Charges. Accordingly, the allegations contained in the Statement of Charges are taken as true.

4. Based upon the facts set forth in the Statement of Charges, the Respondent participated in a fraudulent kickback and price inflation scheme while employed at Split Rock Realty from October 2006 through November 2007.

5. Based upon the facts set forth in the Statement of Charges, the Respondent demonstrated untrustworthiness and financial irresponsibility in violation of Minn. Stat. §§ 45.027, subd. 7(4), 58.12, subd. 1(b)(2)(v), and 82.82, subd. 1(f).

6. Based upon the facts set forth in the Statement of Charges, the Respondent engaged in a fraudulent, deceptive and dishonest act or practice in violation of Minn. Stat. §§ 58.12, subd. 1(b)(2)(iv), 82.81, subd. 12(9), and 60K.43, subd. 1(8).

7. The imposition of appropriate disciplinary action against the Respondent is in the public interest.

Based upon these Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

The Administrative Law Judge recommends that the Commissioner of Commerce take appropriate disciplinary action against the Respondent, Justin J. Christenson.

Dated: October 6, 2011

s/Barbara L. Neilson
BARBARA L. NEILSON
Administrative Law Judge

Reported: No hearing held.

NOTICE

This report is a recommendation, not a final decision. The Commissioner of the Minnesota Department of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Mike Rothman, Commissioner of Commerce, 85 Seventh Place East, Suite 500, St. Paul, MN 55101, tel. 651-296-4026, to learn about the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Commissioner must then return the record to the Administrative Law Judge within 10 calendar days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.